UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/599,000	09/18/2006	Kouji Hatano	NGB-41245	3056

52054 7590 12/22/2009

PEARNE & GORDON LLP
1801 EAST 9TH STREET
SUITE 1200
CLEVELAND, OH 44114-3108

EXAMINER	
WANG-HURST, KATHY W	

ART UNIT	PAPER NUMBER
2617	

NOTIFICATION DATE	DELIVERY MODE
12/22/2009	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

patdocket@pearne.com
dchervenak@pearne.com

Office Action Summary	Application No.	Applicant(s)	
	10/599,000	HATANO, KOUJI	
	Examiner	Art Unit	
	KATHY WANG-HURST	2617	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *28 October 2009*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-5 and 7-14* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-5 and 7-14* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Response to Amendment

1. Applicant's amendment filed on 10/28/2009 has been entered. Claims 1and 5 have been amended. New claims 13-14 are added. Claims 1-5, 7-14 are still pending in this application.

Response to Arguments

2. Applicant's arguments with respect to claims 1-5, 7-14 have been considered but are moot in view of the new ground(s) of rejection.

The prior art of record Tagawa has been modified with new reference Futamase. For clarification applicant's arguments regarding the prior reference are addressed below with explanation of the new reference.

The argued features in the claims, i.e. a communication terminal wherein a reproducing units reproduces media, an informing unit informs incoming events, a superposing unit that superposes media information and informing event information, and a control unit controls superposing such that the superposition is changed gradually and the presentation of informing information is based on the media information, reads upon Tagawa in view of Futamase, As follows.

Tagawa discusses a mobile phone that is capable of playing multimedia such as music or video reacts an incoming phone call by gradually fading out the media being played and gradually fading in a ringing tone at the same time (Abstract and [0020]). Tagawa also discusses the ringing tone is selected based on the identification of the calling party ([0023]). Tagawa does not specifically discuss the ringing tone is selected

based on the media being played. Futamase is brought to show such feature is well known in the art ([0230][0231]). In other words, the ringing tone to inform the incoming event is dependent on the music the phone is playing and the change of music will affect the selection of a ringing tone. Thus Tagawa in view of Futamase teaches "reproducing procedure is a basis for a change of the superposition of the output of the reproducing unit and the output of the informing unit in time series" (see Remarks/Arguments page 8).

Concerning the combination of references, both of the references are from the same field, i.e. communication systems and concern analogous topics. Therefore, the examiner contends that the references would be combinable to one skilled in the art.

Therefore, the argued limitations read upon the cited references or are written broad such that they read upon the cited references, as follow.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

4. Claims 1-5 and 7-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tagawa et al (US 2002/0045438) in view of Futamase et al. (2004/0007120).

Regarding claim 1, Tagawa discloses an information terminal, comprising:

a reproducing unit that reproduces contents ([0020], [0062], [0065], where Tagawa discusses playing music files, therefore a reproducing unit);

an informing unit that informs an occurrence of an event ([0020], [0068], ring tone output unit to inform incoming calls);

a superposing unit that superposes an output of the reproducing unit and an output of the informing unit ([0020] outputting a ring tone while the reproduction unit is reproducing playing music, therefore superimposing the outputs); and

a controlling unit that controls an informing of the occurrence of the event and a superposition of the output of the reproducing unit and the output of the informing unit in a reproducing procedure selected from a plurality of reproducing procedures ([0020] and [0026] a control unit controlling events and executing [0023] different reproduction modes previously set) so that the superposition is changed gradually ([0112]),

wherein a change of the superposition of the output of the reproducing unit and the output of the informing unit in time series is made based on the selected reproducing procedure (see at least [0055][0127][0128][0129] where Tagawa discusses fading in of the ring tone and fading out of the media reproduction being controlled by the reproducing procedures in a time sequence; [0023] selecting a ringing tone is based on the communicating party).

Tagawa also discloses the reproducing procedure is selected based on information extracted from the communicating party and the change of superposition is made based on the selected reproducing procedure ([0023]-[0025]), however, Tagawa does not specifically disclose the reproducing procedure is selected based on meta information extracted from contents.

In an analogous art, Futamase teaches the reproducing procedure is selected based on meta information extracted from contents and the change of ringing tone is made based on the selected reproducing procedure (see [0230][0231], where Futamase discusses the ring tone is selected based on performance data of the music data being played such as a Karaoke song, therefore meta data extracted from contents must be used to detect the type of music being played so that the ringing tone can be selected accordingly. Also see [0014][0123][0210] [0221] for performance data).

Therefore, it would have been obvious to a person having ordinary skill in the art at the time the invention was made to modify the invention of Tagawa, have reproducing procedure is selected based on media contents being played, as taught by Futamase, thus allowing a better way of handling an interrupt by selecting a ringing tone based on the music being played (see [0230][0231]).

Regarding claim 5, Tagawa discloses a method of informing an event that occurs during reproduction of contents,

controlling a superposition of an output of a reproducing unit and a output of an informing unit and an informing of an occurrence of an event in a reproducing procedure selected from a plurality of reproducing procedures so that the superposition is changed gradually ([0068]),

wherein a change of the superposition of the output of the reproducing unit and the output of the informing unit in time series is made based on the selected reproducing procedure (see at least [0055][0127][0128][0129] where Tagawa discusses fading in of the ring tone and fading out of the media reproduction being controlled by

the reproducing procedures in a time sequence; [0023] selecting a ringing tone is based on the communicating party).

Tagawa also discloses the reproducing procedure is selected based on information extracted from the communicating party and the change of superposition is made based on the selected reproducing procedure ([0023]-[0025]), however, Tagawa does not specifically disclose the reproducing procedure is selected based on meta information extracted from contents.

In an analogous art, Futamase teaches the reproducing procedure is selected based on meta information extracted from contents (see [0230][0231], where Futamase discusses the ring tone is selected based on performance data of the music data being played such as a Karaoke song, therefore meta data extracted from contents must be used to detect the type of music being played so that the ringing tone can be selected accordingly. Also see [0014][0123][0210] [0221] for performance data).

Therefore, it would have been obvious to a person having ordinary skill in the art at the time the invention was made to modify the invention of Tagawa, have reproducing procedure is selected based on media contents being played, as taught by Futamase, thus allowing a better way of handling an interrupt by selecting a ringing tone based on the music being played (see [0230][0231]).

Regarding to claim 2, Tagawa discloses the information terminal according to claim 1, further comprising: a storing unit that stores the plurality of the reproducing procedures ([0074] lines 3-5, a memory that stores reproduction methods); and
an extracting unit that extracts the meta information to select the reproducing procedure

from the contents, wherein the controlling unit causes the superposition of the output of the reproducing unit and the output of the informing unit and the information of the occurrence of the event to execute in the reproducing procedure selected based on the extracted meta information ([0068]).

Regarding claim 3, Tagawa discloses the information terminal according to claim 1, further comprising: a storing unit that stores the plurality of the reproducing procedures ([0074] lines 3-5, a memory that stores reproduction methods); and an acquiring unit ([0150] acquire data) that acquires data that is corresponded to the contents. ([0068] it is inherent that there exists an acquiring unit to acquire data so that the control unit cn execute).

Regarding claim 4, Tagawa discloses the information terminal according to claim 1, further comprising: a storing unit that stores the plurality of the reproducing procedures; and a sensing unit that senses a state of the terminal ([0068] can sense/detect the state of the terminal, i.e. terminal is reproducing music when a call arrives), wherein the reproducing procedure is selected based on the sensed state of the terminal ([0068]).

Regarding claim 7, Tagawa discloses the method of informing the event according to claim 5, wherein the reproducing procedure is selected based on information that is corresponded to the contents ([0075]).

Regarding claim 8, Tagawa discloses the method of informing the event according to claim 5, wherein the reproducing procedure is selected based on a state of a terminal ([0067] - [0069]).

Regarding Claims 9-12, combination of Tagawa and Futamase teaches the meta information contains type of the contents being reproduced and information indicating scenario information (see e.g. Futamase: [0116][0124][0136]).

Regarding claim 13-14, combination of Tagawa and Futamase teaches the information terminal according to claim 1 and 5, wherein the reproducing procedure is selected based on type of the contents being reproduced (see Futamase: [0230][0231]).

Conclusion

1. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to KATHY WANG-HURST whose telephone number is

(571) 270-5371. The examiner can normally be reached on Monday-Thursday, 7:30am-5pm, alternate Fridays, EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nick Corsaro can be reached on (571) 272-7876. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/KATHY WANG-HURST/
Examiner, Art Unit 2617

/NICK CORSARO/
Supervisory Patent Examiner, Art Unit 2617